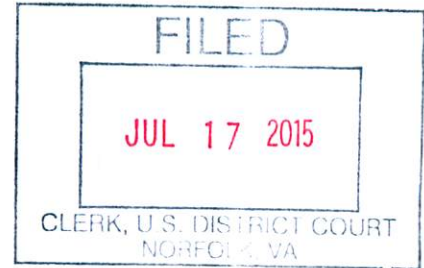


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION



SELECTIVE WAY INSURANCE  
COMPANY,

Plaintiff,

v.

CIVIL NO. 2:14CV650

CRAWL SPACE DOOR SYSTEM, INC.  
d/b/a CRAWL SPACE DOOR  
SYSTEMS, INC.,

Defendant.

ORDER

This matter comes before the Court on opposing Motions for Summary Judgment. ECF Nos. 17, 19. This case concerns an insurance coverage dispute between Plaintiff Selective Way Insurance Company (“Selective”) and its insured, Defendant Crawl Space Door System, Inc. (“Crawl Space”).

Crawl Space is a Virginia corporation that manufactures and distributes flood vent products. ECF No. 4-1 at 1, 3. On September 5, 2009, Selective began providing coverage to Crawl Space under commercial general liability insurance policies. ECF No. 18 at 14. On September 24, 2014, Smart Vent Products, Inc. (“Smart Vent”), a company that also sells flood vents and is a competitor of Defendant’s, filed a lawsuit against Crawl Space in the District of New Jersey. See ECF No. 4-1. Smart Vent brings five counts against Crawl Space: (1) unfair competition under the Lanham Act; (2) unfair competition under a similar New Jersey statute; (3) unfair competition at common law; (4) negligent misrepresentation; and (5) federal trademark infringement. Id.

On December 22, 2014, Selective filed the instant declaratory judgment action, seeking a

declaration that it has no duty to defend or indemnify Crawl Sapce in the Smart Vent suit. ECF No. 1. On June 11, 2015, Selective filed its Motion for Summary Judgment and Crawl Space filed its opposing Motion for Partial Summary Judgment. ECF Nos. 17, 19. The parties' respective responses were filed on July 6, 2015. ECF Nos. 25, 26. The Court held a hearing on the Motions on July 13, 2015.

The Smart Vent action is still pending in New Jersey. Selective has been defending Crawl Space under a reservation of rights. At the hearing before this Court, the parties represented that a motion to dismiss the complaint has been filed in New Jersey, but has not yet been decided. In order to decide the Motions for Summary Judgment, this Court must compare the terms of the insurance policy to the final Smart Vent complaint. If the motion to dismiss is granted in whole or in part and an amended complaint is filed in New Jersey, it could impact this Court's decision on the pending Motions for Summary Judgment. Consequently, this Court will take the Motions for Summary Judgment, ECF Nos. 17, 19, **UNDER ADVISEMENT** pending the complete resolution of the motion to dismiss in New Jersey and the filing of any pleadings in New Jersey as a result thereof.

The Clerk is **DIRECTED** to forward a copy of this Order to all Counsel of Record. The parties are **DIRECTED** to report to this Court within 60 days of the date hereof as to the status of the New Jersey case.

**IT IS SO ORDERED.**

  
**Robert G. Doumar**  
**Senior United States District Judge**

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UNITED STATES DISTRICT JUDGE

Norfolk, VA  
July 17, 2015